

Cashier Validation

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 1/21/91

Michael Ray Black
2212 Park Drive
Baltimore, Maryland 21221

RE:

Petition for Zoning Variance
CASE NUMBER: 91-200-A
5/5 Oakleigh Beach Road, 475' E of Pin Oak Road
(Lot #112, between house nos. 931 & 933)
15th Election District - 7th Councilmanic
Petitioner(s): Michael Ray Black
HEARING: WEDNESDAY, JANUARY 23, 1991 at 2:00 p.m.

Dear Petitioner(s):

Please be advised that \$153 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

J. Robert Haines

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

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Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

December 4, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance
CASE NUMBER: 91-200-A
5/5 Oakleigh Beach Road, 475' E of Pin Oak Road
(Lot #112, between house nos. 931 & 933)
15th Election District - 7th Councilmanic
Petitioner(s): Michael Ray Black
HEARING: WEDNESDAY, JANUARY 23, 1991 at 2:00 p.m.

Variance to allow a buildable lot with a width of 50 ft. in lieu of the required 55 ft.

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Michael Ray Black

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

January 10, 1991

Mr. Michael R. Black
2212 Park Drive
Baltimore, MD 21221

RE: Item No. 143, Case No. 91-200-A
Petitioner: Michael R. Black
Petition for Zoning Variance

Dear Mr. Black:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer

James E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this
31st day of October, 1990.

J. Robert Haines

J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer

Chairman,
Zoning Plans Advisory Committee

Petitioner: Michael R. Black

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: December 13, 1990

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 143
Black Property
Chesapeake Bay Critical Area Findings

RECEIVED
DEC 18 1990
ZONING OFFICE

SITE LOCATION

The subject property is located on Oakleigh Beach Road. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. Michael Ray Black

APPLICANT PROPOSAL

The applicant has requested a variance from section 1802.3.C.1 of the Baltimore County Zoning Regulations to permit a "buildable lot with a width of 50 feet in lieu of the required 55 feet".

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." COMAR 14.15.10.01.D

Memo to Mr. J. Robert Haines
December 13, 1990
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REGULATIONS AND FINDINGS

1. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Sec. 22-216(a)>.

Finding: This property is located approximately 200 feet from the mean high tide of Schoolhouse Cove. Therefore, no disturbance of the shoreline buffer shall occur.

2. Regulation: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination" <Baltimore County Code Sec. 22-98>.

Finding: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site. Therefore, no filling of wetlands shall occur.

3. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot" <COMAR 14.15.02.04 C.(7)>.

Finding: The applicant proposes to use a gravel driveway. The proposed house creates approximately 13% impervious surfaces on the lot. That applicant shall not increase impervious surfaces that sum to more than 15% of the lot.

4. Regulation: "If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland of at least 15%" <COMAR 14.15.02.04 C.(5)>.

Finding: The following plant material shall be selected from the enclosed list and planted in addition to existing vegetation to provide a 15% forested cover.

Shrub and small tree list: 8 items - ball and burlap or 2 gallon container size

Tree list: 2 items - minimum 4 foot size

Trees are an important factor in improving water quality. The roots of trees greatly improve the infiltration rate of storm water and efficiently remove nitrogen from subsurface flows of groundwater. Trees also act as both a barrier and a sponge, blocking and absorbing eroding soils and the phosphorous associated with them.

Memo to Mr. J. Robert Haines
December 13, 1990
Page 3

5. Regulation: "The stormwater management system shall be designed so that:

(1) Development will not cause downstream property, watercourses, channels or conduits to receive stormwater runoff at a higher rate than would have resulted from a ten year frequency storm if the land had remained in its predevelopment state;

(2) Infiltration of water is maximized throughout the site, rather than directing flow to single discharge points; and

(3) Storm drain discharge points are decentralized to simulate the predevelopment hydrologic regime.

(4) There is sufficient storage capacity to achieve water quality goals of COMAR 14.15 and to eliminate all runoff caused by the development in excess of that which would have come from the site if it were in its predevelopment state" <Baltimore County Code, Section 22-217(h)>.

Findings: In order to comply with the above regulation, rooftop runoff shall be directed through downspouts and into Dutch drains or seepage pits (see attached drainage information sheet). This will encourage maximum infiltration of stormwater and decrease the amount of runoff leaving the site.

CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above.

Upon compliance with Chesapeake Bay Critical Area Regulations, this project will be approved. If there are any questions, please contact Mr. David C. Flowers at 887-2904.

Robert W. Sheesley

Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:DCF:jw

Attachment

cc: The Honorable Ronald B. Hickernell
The Honorable Vincent Gardina
The Honorable Donald Mason
Mrs. Janice B. Outen

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(801) 887-3554

November 28, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers, 100, 115, 118, 137, 138, 139, 141, 142, and 143.

Very truly yours,

Michael S. Flanigan

Michael S. Flanigan
Traffic Engineer Associate II

HSF/lab

THEODORE E. MCCADDEN, SR.
and
MICHAEL BLACK
Appellants
vs.
BOARD OF APPEALS
Appellee
IN THE
CIRCUIT COURT
OF
BALTIMORE COUNTY
CASE NO. 88 CG 2545

OPINION AND ORDER

This case is before this Court on the appeal of Theodore E. McCadden, Sr. and Michael Black, Appellants, from the decision of the Board of Appeals for Baltimore County. That decision, rendered May 19, 1988, reversed the decision of the Deputy Zoning Commissioner and denied the Appellants' request for a five foot area variance.

The Appellant, McCadden, owned lots numbered 112, 113 and 114 on Oakleigh Beach Road, Baltimore County. McCadden sold lot 113, which had been improved with a residential structure. He now seeks a variance pursuant to B.C.Z.R. Section 307 (1955) so that he may build on the remaining lots 112 and 114.

In appeals of this nature, the reviewing court's standard of review is limited. The decision of the Board of Appeals should be affirmed if there is evidence sufficient to make the Board's findings "fairly debatable". *Lovola Loan Ass'n v. Buschman*, 227 Md. 243, 246-47 (1961). The Board's decision will be affirmed even if reasonable minds would have reached a different conclusion on the evidence, or even if the reviewing court would have reached a different result on the evidence. *McLean v. Soley*, 270 Md. 208, 215-16 (1973).

IN THE MATTER OF
THE APPEAL OF
THEODORE E. MCCADDEN, SR. and
MICHAEL BLACK
FROM A ZONING VARIANCE DECISION
RENDERED BY THE BOARD OF APPEALS
FOR BALTIMORE COUNTY
BALTIMORE COUNTY
CASE NO. 88-142-A
THE ZONING DEPARTMENT

OPINION

This matter comes before the Board as an appeal from the decision of the Deputy Zoning Commissioner dated December 15, 1987 which granted the Petitioner's variance allowing building on lot widths of 50 feet in lieu of the required 55 feet. The Petitioner, Theodore E. McCadden, Sr., appeared and was not represented by counsel. He testified that he had originally purchased lots identified on the plat as #112, #113 and #114. An existing dwelling house occupies lot #113, which the Petitioner has rehabilitated and resold. He seeks a variance in order to build on lots #112 and #114. In support of his petition, Mr. McCadden testified as to the existing layout of the neighborhood which was developed in the late 19-0's. As the plat of the community indicates, all of the lots were originally sold as 50-foot wide parcels, as is the case in numerous areas of the County. Many of the single lots were developed with residences; however, sprinkled throughout the community are double- and triple-lot homes. Mr. McCadden testified that he would endure practical difficulty or undue hardship if unable to build on these single lots, as they would then be unusable.

In opposition to the petition, the Board received testimony from Sandra Pool, a spokesperson on behalf of other community residents. Ms. Pool set forth numerous concerns in opposition to the petition. Foremost among these were safety, traffic, drainage, and overcrowding considerations. Ms. Pool produced numerous photographs and exhibits in support of her position.

IN RE: PETITION FOR ZONING VARIANCE *
THEODORE E. MCCADDEN, SR. and *
MICHAEL BLACK *
FROM A ZONING VARIANCE DECISION *
RENDERED BY THE BOARD OF APPEALS *
FOR BALTIMORE COUNTY *
BALTIMORE COUNTY *
CASE NO. 88-142-A *
THE ZONING DEPARTMENT *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit lot widths of 50 feet in lieu of the required 55 feet for lots 112 thru 114, as more particularly described on Petitioner's Exhibit 1.

The Petitioners, by Theodore McCadden, Sr., appeared and testified on behalf of himself and Michael Black. Numerous homeowners appeared as Protestants and appointed Ms. Sandra Pool as their spokesperson.

The subject property, zoned D.S. 5-5, is part of the Oakleigh Beach subdivision located on Oakleigh Beach Avenue near Wise Avenue. The Petitioner submitted as Petitioner's Exhibit 2 a copy of the Plat for Oakleigh Beach filed and recorded in the Land Records of Baltimore County on August 24, 1959. Testimony indicated that the Petitioners purchased the property approximately one year ago and that the property consists of three lots, lots 112, 113 and 114. Each lot is 50 feet wide and 150 feet deep. Two of the three lots are vacant and undeveloped. The center lot is improved with an existing single-family residence, as shown on Petitioner's Exhibit 1. The Petitioners are requesting the variance to permit the development of the two unimproved lots. Mr. McCadden testified that he intends to build a house, approximately 28' x 28' and will not need any variances from front, side and rear yard setback requirements. He further testified that he had been advised that he could subdivide the three lots in a manner that would permit the construction of two additional dwellings. However, he indicated that the layout of the houses would not be in conformance with the

ORDER RECEIVED FOR FILING
Date 1/13/89
By [Signature]

PROTESTANT'S
EXHIBIT 2

Mr. Theodore E. McCadden, Sr.
County Clerk
1000 E. Baltimore Avenue (Office)
City Court House
400 Westminister Avenue
Towson, Maryland 21204

91-200A

Dear Sir:

In 1987 Mr. Theodore McCadden and Mr. Michael Black presented a petition for a variance to the zoning department in order to build on two undersized lots in the Oakleigh Beach community. The variance was granted indiscriminately in spite of numerous protests. (Case No. 88-142-A)

The community members appealed this decision to the Board of Appeals which decided in favor of the community to deny a variance. (Case No. 88-142-A)

Mr. McCadden and Mr. Black then made an appeal to the Circuit Court which also decided in favor of the community. (Case No. 88-05-2545) Mr. McCadden and Mr. Black were denied further appeals.

On January 6, 1991 the Zoning Department placed a sign indicating a hearing to be held regarding this same property. (Case No. 91-200-A) We have contacted the Zoning Department and informed them that this issue has been all through the legal processes and the decision finalised.

We members of the community would like to know how the petitioners can walk back in the door of the zoning department and have this same issue put through the same process starting at the lower level after two higher level courts have made final decisions against them. Does not the county legal system have any power or authority? Do the citizens of the community pay out money for legal costs to go through the court system just to supply funds for the system? Are we expected to put out money on legal fees every year endlessly?

It would seem to us that there are three conceivable reasons why this incident is recurring: 1) The petitioners are just blatantly flouting the law and showing contemptuous and cocky boldness and disregard for the law. 2) Our courts have no power or authority. 3) The Zoning Department doesn't know its job or doesn't know how to do its job properly.

The first reason may well be the true reason this is happening. When the former court processes on this issue were taking place one of the two men involved did not even attend the Board of Appeals hearing. The man's partner at the time let it be known to us that he did not have to come to the hearing, that he was not concerned - he knew some people in Towson. This man, Mr. Black, is now the one who is bringing this issue back to the zoning department. (Case No. 91-200-A)

